

*[Handwritten signature]*  
A RESOLUTION  
BY COUNCILMEMBER FELICIA A. MOORE

04-R-0781

*[Handwritten signatures: P. R. Hill, C. T. Martin, Felicia A. Moore, Mary Norwood, David Archibald, and another signature]*  
**A RESOLUTION REQUIRING PROPER SIGNATURES AND SEALS FROM PROFESSIONAL ENGINEERS ON WORK PRODUCT SUBMITTED TO EPD; TO OBTAIN WRITTEN PROOF FROM GEORGIA EPD THAT SAID PLANS SATISFY REQUIREMENTS; OBTAINING WRITTEN GUARANTEE FROM THE CITY'S PROFESSIONAL ENGINEERING CONSULTANTS THAT CSO AND OTHER CONSENT DECREE REQUIREMENTS WILL BE MET; AND REQUIRING A PLAN FOR HOLDING ANY AND ALL ENGINEERS AND CONSTRUCTION FIRMS LIABLE FOR ALL COST DECREE MANDATES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the 1972 Clean Water Act established laws which require jurisdictions in the U.S. to achieve water quality standards, and

**WHEREAS**, Atlanta's combined sewer system is an obstacle to meeting the water quality standards promulgated in the Clean Water Act; and

**WHEREAS**, in Georgia, the responsibility of permitting, compliance, and enforcement of the Clean Water Act has been assigned, primarily, to the Georgia Environmental Protection Division (EPD); and

**WHEREAS**, during the mid-1990s for the purpose of meeting water quality standards the City and its professional engineering consultants designed and constructed six combined sewer overflow (CSO) "mini-treatment" facilities costing over \$170 million; and

**WHEREAS**, these "mini-treatment" facilities were designed by professional engineering consultants employed by the City of Atlanta; and

**WHEREAS**, the City of Atlanta received verbal assurance from the Georgia EPD that these "mini-treatment" facilities would result in the City meeting water quality standards; and

**WHEREAS**, the "mini-treatment" facilities failed to meet water quality standards; and

**WHEREAS**, this failure led to the EPA, EPD, Upper Chattahoochee Riverkeeper lawsuit which resulted in the current CSO Consent Decree; and

**WHEREAS**, the cost to implement the City's CSO plan necessary to meet the requirements of the CSO Consent Decree is estimated at \$800 million to \$1 billion; and

**WHEREAS**, the CSO plan was developed by professional engineering consultants for the Department of Watershed Management and for the purpose of ensuring that the city would meet the requirements of the Consent Decree and Clean Water Act; and

**WHEREAS**, the method used by the professional consulting engineers to meet the requirements of the Consent Decree and Clean Water Act is containment of combined sewer flow with a tunnel structure so as to allow no more than an average of 4 combined sewer overflows per year per CSO; and

**WHEREAS**, it is the responsibility and obligation of the professional engineering consultants that developed the CSO plan and the Department of Watershed Management that accepted the plan to formally certify that it will meet the requirements of the Consent Decree and Clean Water Act; and

**WHEREAS**, the enormous financial commitment citizens are making to satisfy the CSO project entitles them to request and receive a formal certification that the plans and projects will meet all requirements and additional projects will not be needed; and

**WHEREAS**, without such certification citizens will continue to run the risk of being burdened with the financial obligation to fund future projects to address the same CSO problem as outlined in the CSO Consent Decree; and

**WHEREAS**, the Atlanta City Council has the moral, fiduciary and fiscal responsibility to obtain such certification and sealing of the documents, thus assuring citizens that the CSO plan as designed and developed by the city's consulting engineers will satisfy the Consent Decree and Clean Water Act.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA THAT:**

**SECTION 1:** written proof be obtained from the City's professional engineering consultants demonstrating that their work products submitted to EPD have proper signatures and seals from professional engineers who are registered in the State of Georgia in accordance with the Georgia Rules and Regulations for Water Control.

**SECTION 2:** written proof be obtained from the Georgia EPD that plans and reports submitted by the City's professional engineering consultants will satisfy the requirements of the Georgia Rules and Regulations for Water Control have proper signatures and seals.

**SECTION 3:** a written guarantee be obtained from the City's professional engineering consultants evidence that the objectives of the CSO Consent Decree and other requirements of the Clean Water Act will be satisfied including but not limited to assurance that there be no more than an average of 4 overflows per year.

**SECTION 4:** written certification be obtained from the City's professional engineering consultants that upon construction of the designs and plans the City's sewage collection, transmission, and treatment system will function in a manner that satisfies the CSO Consent Decree and be in compliance with the Clean Water Act.

**SECTION 5:** all necessary actions shall be taken to ensure that Atlanta citizens are not financially burdened in the event that the design is constructed according to plans and specifications but fails to meet the Consent Decree and Clean Water Act. In the event of a

failure, the financial burden and compliance obligation shall be solely with the engineers who have failed to deliver on their guarantee.

**SECTION 6:** a specific and detailed contingency plan, for holding any and all engineering or construction firms liable, for all costs arising from any failure of the plan's designs or the associated construction activities to satisfy all requirements of the CSO Consent Decree, including but not limited to, all water quality standards. The contingency plan shall identify all warranties provided to the city by the engineering and construction firms and should identify all available legal remedies that the city will pursue against responsible engineering and construction firms so that Atlanta citizens are not burdened with any costs arising from any design or construction failures.

**SECTION 7:** the aforementioned sections shall be completed, or substantially in progress, and copies received by the Mayor and the Atlanta City Council no later than 90 days from the date of this resolution's adoption.